

Minutes of the Special And Regular Meeting of Tuesday, July 12, 2005
City Council Chambers, One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:20 P.M.

- A. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section No. 54957.6: 1) MMCEA, 2) AFSCME.
- B. Conference regarding Public Employee Appointment Pursuant to Government Code Section 54957: City Manager
- C. Public Employee Performance Evaluation, per Government Code Section 54957: City Attorney Zafferano

Attended by Councilmembers Feierbach, Mathewson, Metropulos, Warden, Deputy City Attorney Rubens (Item A only) Interim City Manager Jack Crist, Finance Director Fil (Item A only), Human Resources Director Dolan (Item A only), and Fran Buchanan (Negotiator, Item A only). Councilmember Bauer was absent. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri Cook
Belmont City Clerk

Meeting not audio recorded or videotaped.

REGULAR MEETING

CALL TO ORDER 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Mathewson, Metropulos, Warden

COUNCILMEMBERS ABSENT: Bauer

Staff Present: Interim City Manager Crist, City Attorney Zafferano, Community Development Director Ewing, Finance Director Fil, City Engineer Phalen, City Clerk Cook.

REPORT FROM CLOSED SESSION

Mayor Warden announced that direction had been given but no action taken during the Closed Sessions held earlier in the evening.

SPECIAL PRESENTATIONS

Proclamation Declaring Belmont as a Relay for Life Community

Mayor Warden read the Proclamation.

Carolyn Boynton, Relay for Life Committee Member, stated that the Belmont-San Carlos Relay would be held at Carlmont High School from 10:00 a.m. July 16 through 10:00 a.m. July 17, 2005, and she invited the community to participate. She noted that Councilmember Metropulos was the Co-Chair for this event.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Mary Ridge, Hiller Street, commented regarding parking and code enforcement activities in the Sterling Downs neighborhood. She stated she received a notice regarding her vehicle's excessive exhaust, but she had just had it serviced, and was not driving it the day noted on the form. She continues to receive invoices for dog licenses for her dog that died four years earlier. She noted there is shrubbery extending into the sidewalk near the UPS Store, and roofing trucks are parked on several streets in the neighborhood.

Joline Bettendorf, Valley View Drive, stated she had formed an ad hoc citizens committee called the Cougar Interest Group (CIG). She reviewed the activities of the committee, and noted it had met with the police department, which was supportive. She is working with the Department of Fish and Game in Monterey, which recommends that public outreach not take place since there have been no official sightings in Belmont. Her goal is for the committee to be a liaison with the City for the exchange of information on this issue, and recommended that people should report a cougar sighting to the police department.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Metropulos announced the American Cancer Society's Relay for Life fundraiser to be held at Carlmont High School, as previously noted.

CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of June 14, 2005.

Acceptance of Written Communication: 1) Received July 1, 2005, Notice of Filing of Application of PG&E for Approval for Recovery in Rates regarding Construction of Contra Costa Unit 8 Facility; 2) Letter dated July 1, 2005 regarding Southern Cal Edison's 2004 Annual Report.

Approval of Resolution 9680 Authorizing the Adoption of the Disadvantaged Business Enterprise (DBE) Program for Federally Funded Roadway Improvements for Use on U.S. Department of Transportation Funded Projects (Federal Fiscal Year 2004/2005)

Approval of Resolution 9681 Denying an Application for an Amendment to the Conceptual Development Plan for Charles Armstrong School Located At 1405 Solana Drive (Application No. 2003-0099).

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Feierbach, the Consent Calendar was unanimously approved by a show of hands (4-0, Bauer absent).

OLD BUSINESS

Police Department/City Hall Project - June Monthly Update and a Resolution authorizing a Second Amendment to the Professional Services Agreement with Harris and Associates for an amount Not to Exceed \$49,974

Interim City Manager Crist stated that this amendment for Harris and Associates exceeds the accumulative authority of the City Manager. He noted that recently retired Parks and Recreation Director Mittelstadt was now overseeing the project on behalf of the City, but additional services were needed from Harris and Associates.

In response to Council questions, Special Projects Director Mittelstadt stated that it was anticipated that the deadline of August 5 for Phase II would be met, but that it may slip to mid-August, and the police administrative staff was scheduled to move during the second half of August. He clarified that the demolition of the existing police building was a separate project from the City Hall project.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Metropulos, Resolution 9682 authorizing a Second Amendment to the Professional Services Agreement with Harris and Associates for an amount not to Exceed \$49,974 was unanimously approved by a show of hands (4-0, Bauer absent).

Approval of Letter for the Mayor's Signature Stating the Council's Preference for Composition of the South Bayside Waste Management Authority Board of Directors.

City Engineer Phalen stated that the South Bayside Waste Management Authority (SBWMA) Board, which regulates solid waste management, is currently comprised of staff. Council had expressed a desire for the board to be comprised of elected officials instead. She noted that a draft letter to that effect was included for Council review and direction.

Mayor Warden stated that SBWMA staff is making policy decisions, and the consensus is that elected officials should make them. He noted that the recent \$11 million settlement of public funds was made during closed door meetings.

Councilmember Metropulos stated that the letter should be sent to all other mayors and city councilmembers. He noted that this effort was spearheaded by Belmont.

City Clerk Cook advised that city council mail distribution is managed differently in each city, and she could include a memo to each city's City Clerk to request distribution to all councilmembers.

ACTION: On a motion by Mayor Warden, seconded by Councilmember Metropulos, and unanimously approved by a show of hands (4-0, Bauer absent) to send the letter as presented addressed to each mayor and/or chairperson of the special district, to include a memo requesting that all elected officials be copied.

Consideration of Resolution to place a proposition on November 8, 2005 ballot requiring voter approval of certain amendments to the existing hillside residential and open space zoning districts (HRO-1, HRO-2, HRO-3), and associated General Plan land use amendments

Community Development Director Ewing stated that August 12 is the deadline for placing an initiative on the November 8 ballot. He reviewed the ballot initiative process, HRO designations, as well as the San Juan Canyon Plan and its preservation policies. He noted that the Plan addresses protection of hillsides, geologic issues, and the lack of services and infrastructure in the area. He noted that this initiative proposes that any new subdivisions in HRO designated parcels in excess of the allowed density would require a vote of the people. He clarified that the

initiative is exempt from CEQA review, and a negative declaration could be processed to solidify the issue.

Councilmember Feierbach stated that she supports placing the proposition on a general election, not a special election. She would like to address the policy issue of road extensions as outlined in the San Juan Plan, and noted that the Western Hills area should be subject to the initiative.

Community Development Director Ewing recommended a single-purpose initiative.

Mayor Warden recommended clarification and expansion of the question to be put forth to voters.

In response to Council questions regarding cost of election, City Clerk Cook clarified that the County Election Office estimates an additional cost of approximately \$10,000 above the cost of the regular municipal election in November. She noted that this figure could triple should there be a special election with no other issues on the ballot.

Louise Morin, on behalf of Cipriani Neighborhood Association, stated that the skyrocketing prices of homes are putting pressure for development. She noted the cost of an election is small compared to other issues such as liability and landslides.

Linda Silva, Hastings Drive, commended the Council for being forward thinking rather than reactive. She noted that Belmont is sensitive to the environment. She recommended an expansive rather than constrictive initiative. There is a need for open space, peace, and quality of life. She has spoken to other residents who share her recommendation.

Jonathan Gervais, Casa Bona Way, thanked the Council for the recent purchase of the lot on Semeria. He noted it is hard to place a value on wetlands and open space, but it has value. He noted this initiative is not taking away development rights.

Alisa Feree, Fifth Avenue, agreed with the comment that this initiative is forward thinking, and she supports placing it on the ballot.

Chris Wozniak, Solana Drive, supports the initiative, and recommended adding the Agricultural zoning to the affected zoning districts, since those parcels could be developed.

Michael McHugh, Belmont Canyon Road, stated that the democratically-elected form of government guarantees property rights. This initiative is discriminatory to lot owners, and the previous slope density issue constituted a taking of property. He noted a campaign is burdensome, and that it proposes to use a scare tactic that a future Council could be bought. He added these lots cannot be built on anyway. His neighbors sent him a letter of non-support. The Council is elected to make difficult decisions, and this issue should be addressed by the Council on a case-by-case basis.

Councilmember Feierbach clarified that this initiative does not affect floor area ratio (FAR) or adding on to an existing home in the HRO zones, but addresses subdivisions. She noted that the

City of Saratoga recently passed an initiative which now requires a vote for the development of any parcel, and she feels this is too restrictive. The initiative in the City of Milpitas requires a vote for any hillside development above the allowable density, which she noted was very strict.

Community Development Director Ewing stated that the initiative does not change the standards outlined in HRO zoning designations, which specify conditions for development. It also does not change the process for FAR variances. It addresses wholesale changes within the HRO zone, such as density. In response to Councilmember Metropulos' question regarding the affect of including the Agricultural zone, he noted that this would introduce different zones into the issue, which could be problematic.

Councilmember Mathewson stated that this initiative does not reduce the potential build-out, but lets people decide if they want to loosen the standards.

Councilmember Metropulos stated he would not support the initiative if individual rights were restricted.

Mayor Warden agreed, and noted that the most contentious issues in the last 20 years have been over land use. He noted that people support land-use candidates regardless of their position on other issues. This initiative may end the contention and separate land use from other issues during campaigns. Some land use issues are beyond the scope of the Council to address, and as an example, he cited the recent decision by the City of San Bruno to allow the residents to vote on the continuation or prohibition of the sale and use of fireworks in their community. He recommended placing this initiative on the ballot. He also recommended that although not required, affected landowners be notified of the continued discussion of Council on this issue.

Community Development Director Ewing stated that 200 parcels are immediately subject to this initiative, but to include adjacent parcels would increase that number to over 1,000 parcels. He noted this level of notification would trigger a newspaper ad for other issues such as zoning changes.

Council concurred to place a display ad in the newspaper to advise residents that Council is considering this initiative at its next meeting.

Councilmember Feierbach requested additional information regarding the ability to require that a developer pay for a future election, or to allow a developer to request a special election rather than wait for the next general election.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Mathewson, by a show of hands (4-0, Bauer absent) this item was unanimously continued to the July 26, 2005, Council meeting for additional discussion and consideration.

RECESS: 8:50 P.M.
RECONVENE: 9:00 P.M.

Preliminary Design Review for 1300 El Camino Real - Proposed Tentative Subdivision (Condominium)

Community Development Director Ewing stated the new owner of 1300 El Camino Real is proposing a 9-unit condominium development, with parking on the first floor and three floors of dwelling units. He noted that amendments to the General Plan and the Downtown Specific Plan would be required should this project go forward as proposed. He reviewed the preliminary review process, and noted that no detailed staff analysis had been made, other than that the proposed density is 47:1, and the current C-2 zoning allows for 30 units per acre. He noted this property is less than an acre, or 8700 square feet.

In response to Council questions, Community Development Director Ewing clarified that residential or office uses are conditional uses in the C-2 zoning, and are not related to the previous retail use of the former building. He also clarified that floor-to-ceiling height is lower in residential uses than office space, and is approximately 9-12 feet for retail.

Parviz Kamangar, 1300 El Camino Real property owner, stated he has developed many residential projects, and some commercial projects. He is aware of the current zoning on this parcel. He could propose a commercial project for this property, but noted it is ideal for a residential project. The Downtown Specific Plan suggests the need for residential developments in the Village to support commercial businesses. There are many commercial projects on El Camino, some of which are not attractive. This parcel is near a wide variety of shops, the park, the Senior Center, and public transportation. He will propose a commercial project if the Council desires, but expressed concern regarding competition with existing businesses. He requested that the Council address the question of whether or not it would support a residential use, and if so, at what density? He noted the building height is proposed to be 40 feet. He added that he is committed to a quality project.

In response to Councilmember Metropulos, Community Development Director Ewing stated that all housing projects in the Redevelopment Agency require that 15 percent of the units be set aside at below-market rates.

Councilmember Feierbach stated that she would support a mixed-use project, two to three stories, but not four, and within the permitted density only. She recommended that the first floor height be higher for an upgrade of commercial use for restaurant or other high-end use. She noted that tandem parking is problematic. She recommended utilizing the same design as whatever development is built on the old city hall site.

Mr. Kamangar responded that some of the eleven restaurants in the downtown area are not doing well, and that all restaurants need people to support them. He stated that mixed-use buildings create competing parking issues, although underground parking could be set aside for residents only. He stated his desire is to complement the existing Village development, and utilize Victorian or the adjacent old fire station architecture.

Alisa Ferree, Fifth Avenue, stated she supported the proposed residential use, but not mixed use. The project is too dense as proposed, and she would support six units per the permitted zoning.

She expressed concern regarding building height and bulk, and stated that the neighborhood could provide feedback to the developer.

Councilmember Mathewson stated that he would support either a mixed-use or a residential project. The project is too dense, as it is double what is permitted. He noted the building is four stories with only a two-foot setback. He would not support tandem parking. He recommended reducing the number of units, or proposing a mixed-use project. He noted that Cal Train will be reducing the number of trains stopping in Belmont during peak hours, so a transit-oriented development may be difficult if transit is reduced.

Councilmember Metropulos stated that this property has great potential. The density is too high as proposed, and he recommended one less story with a reduction in the size or number of units. He noted this is a transit-friendly parcel and is within walking distance of many services. He recommended engaging the neighborhood in the process.

Mayor Warden stated he would reject the project as presented. It is too big, bulky, and dense. He would support a commercial mixed-use project compatible with adjacent buildings, with commercial/retail on the first floor, and mixed use on the second and third floors. He stated the City needs a tax base. A residential project is a gamble. Parking is an issue. He noted this is a difficult parcel to develop.

Mr. Kamangar stated he was disappointed that the Council was not supportive of a residential project. He is concerned about doing a typical commercial project, although he could propose such a project. He noted the success of the residential project at Old County Road and Masonic. Mayor Warden responded that a developer should not ask the City to change the rules for a gamble.

Community Development Director Ewing commented that any residential use of this parcel would require a Conditional Use Permit, and other entitlements for additional square footage would likely be needed.

Initiation of Municipal Code Amendment – Granting to the Planning Commission Authority to Call Up Administrative Decisions

Community Development Director Ewing stated that the Council and Planning Commission currently receive notification of administrative decisions, and an appeal process is in place. He noted that should a call-up process be implemented, every administrative decision would be subject to a 30-day hold, which could delay applicants. He stated that an option exists to automatically defer all administrative decisions to the Planning Commission. He noted there would be no fee associated with a call-up provision, which is not an insignificant issue.

In response to Councilmember questions, Community Development Director Ewing clarified that City Councilmembers are permitted to call up Planning Commission decisions, but not administrative decisions. Commissioners are currently required to pay a fee of \$50 if they choose to appeal an administrative decision. He also noted that if an item is appealed to the Commission, the Commission's decision is final.

Councilmember Feierbach stated she would support an amendment to allow for call-up provisions by the Planning Commission.

Mayor Warden stated that there is a difference between a call-up and an appeal. He noted that a call-up of a Planning Commission decision by the Council involves minimal staff time, as the same staff report for the Planning Commission meeting is used. The intent is to give the Planning Commission similar rights to examine administrative decisions. A similar procedure could be implemented.

Community Development Director Ewing stated that this would put every application in jeopardy, as each project could be delayed 30-45 days. He noted there is no staff report on administrative decisions. These decisions are on small projects, but take staff time.

Mayor Warden stated that it is not his intent to delay any projects, and hoped that the Planning Commission would not abuse this process.

Councilmember Mathewson stated he does not support the option for a Writ of Administrative Decision, as proposed by staff. Staff is employed to make decisions on most issues, and for the most part does a good job. Exemptions for certain types of decisions now being made by staff could be addressed. He cited an issue of incremental entitlements being approved administratively. He would support a call-up process for the Planning Commission on a trial basis.

Councilmember Metropulos stated he would support the process on a trial basis.

Mayor Warden stated that he would support implementing a mechanism for the Commission to vote on whether or not to call up a specific item requested by one of its members.

Deputy City Attorney Rubens and Community Development Director Ewing clarified that if there were concurrence on this issue, this would require an amendment to the municipal code section that addresses the duties of the Planning Commission.

Councilmember Mathewson expressed concern that Municipal Code Section 17.4 does not permit the Planning Commission to incur debt in excess of the authority given to it by the City Council. Deputy City Attorney Rubens stated this could be addressed when this item returned for a full hearing, and that it may not affect this code section.

Council concurred to initiate a municipal code amendment to grant call-up authority for the following administrative decisions: *exceptions to single family floor area standards, HRO density transfers and lot line adjustments, extensions of time for administrative approvals, conditional use permits, amendments to detailed development plans, and design review approvals*; no call-up fee to be assessed, a majority vote of the Commission is required to call an item up for full review, to review in one year from implementation, and to track costs.

Discussion and Direction on Grant Application

City Engineer Phalen stated that there is a desire to establish a written policy regarding the application for grants. She noted that the process for each grant application varies, as some need Council approval and some do not, and she noted many park and recreation grants are under \$5,000.

ACTION: Councilmember Mathewson made a motion, seconded by Councilmember Metropulos, to direct staff to prepare a grant application policy which would require City Council approval for all grants exceeding \$5,000.

City Engineer Phalen stated that she could confer with other departments to ensure that the \$5,000 amount is an appropriate threshold. There may be grants exceeding \$5,000 that do not require matching funds.

ACTION: Mayor Warden requested a friendly amendment to have staff set an appropriate threshold dollar amount, based on further discussions. Councilmember Mathewson and Metropulos accepted the amendment.

ACTION: The initial motion, as amended, was unanimously approved by a show of hands (4-0, Bauer absent).

Subcommittee Report and Council Action Regarding Negotiations with Scott Piazza on Development of Hillside Properties

Community Development Director Ewing stated that the City Council Subcommittee (Mathewson/Feierbach) met with Mr. Piazza and the land-use attorney to address a number of issues in Mr. Piazza's proposed project. He noted that the subcommittee's recommendation is that there is no benefit to the City to continue a separate negotiations process and to direct Mr. Piazza to apply for his project through the standard application process.

Councilmember Feierbach stated that the proposed development agreement deviates from the San Juan Plan, the San Juan Trust is named as a third party, and the agreement cannot be reconstructed without major revisions. She noted that the number of units is an issue, and neighbors have expressed concerns regarding the lack of public process for this proposed development.

Councilmember Mathewson expressed concern that no amendment proposed through this negotiations process would have been open and public.

Community Development Director Ewing stated that the City would not receive any additional benefits from a development agreement, as the benefit is to the applicant only. He noted that a public hearing is still required, and that there is no requirement for the City to approve the maximum number of potential units.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Mathewson, and unanimously approved by a show of hands (4-0, Bauer absent) to reject the proposed development agreement and direct the applicant to apply through the regular application process.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Update and Reconsideration of Council Intergovernmental Assignments

Mayor Warden stated that this was placed on the agenda as a mid-year check-in of the Intergovernmental assignments. He noted that some Councilmembers are not consistently attending their meetings. He noted that he himself has difficulty with the Library JPA meeting schedule.

Councilmember Feierbach stated that the San Francisco Airport roundtable is a discouraging assignment.

Council discussion ensued, and Council concurred to leave the assignments as they currently stand with a reminder that if the primary delegate is unable to attend, he/she should contact the alternate.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of City contribution to Notre Dame de Namur-sponsored International Piano Competition (Warden)

Mayor Warden stated that he would like to consider some level of funding for this event, as it is a positive thing for Belmont. He noted this would be seed money for a special project, and is not intended for administrative and ongoing expenditures. This contribution may help NDNU leverage for other funds, since it would show a commitment from the City.

Councilmember Mathewson expressed concerns regarding the Council funding this project when other community group funding was suspended. He added that the NDNU Advisory Committee might be able to recommend some form of non-monetary contributions from the City.

Councilmember Feierbach stated she could support a contribution of \$1,000.

Councilmember Metropulos recommended postponing any decision until it is known whether the project is going forward.

Mayor Warden stated he could support a contribution conditioned on the project taking place, and he would not like to miss out on the opportunity to support something that may have long-term benefits for Belmont.

Council concurred to re-agendize this item for August 9.

ADJOURNMENT at this time, being 10:15 P.M.

Terri Cook
Belmont City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 613

Minutes approved 8/9/2005